

**IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

IN RE:

CIRCUIT CITY STORES, INC., et al

DEBTORS.

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**CASE NO. 08-35653-KRH
Jointly Administered
CHAPTER 11**

**OBJECTIONS OF RAYMOND & MAIN RETAIL, LLC
TO MOTION OF THE DEBTORS FOR ORDER UNDER SECTION 365(d)(4)
EXTENDING TIME WITHIN WHICH DEBTORS MAY ASSUME OR
REJECT UNEXPIRED LEASES OF NONRESIDENTIAL REAL PROPERTY**

Raymond & Main Retail, LLC ("Raymond & Main"), by and through its undersigned counsel, objects to the *Motion of the Debtors for Order Under Section 365(d)(4) Extending Time Within Which Debtors May Assume or Reject Unexpired Leases of Nonresidential Real Property* (the "Extension Motion"), and in support thereof, respectfully states as follows:

BACKGROUND

1. On November 10, 2008 ("Petition Date"), the above-captioned debtors and debtors-in-possession (collectively, the "Debtors") filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code ("Bankruptcy Code"), thereby commencing these cases.

2. On or about November 20, 2008, the Debtors filed the Extension Motion, in which they seek to extend the time within which they must assume or reject unexpired nonresidential real property leases under which the Debtors are lessee from March 10, 2009 to June 8, 2009.

3. On December 10, 2007, Raymond & Main, as landlord, and Circuit City Stores West Coast, Inc. ("Circuit City West") (one of the Debtors herein), as tenant, entered into a lease

agreement (the "Alhambra Lease") under which Raymond & Main leased certain property (the "Leased Premises") located in Alhambra, California to Circuit City West.

4. As part of the Alhambra Lease, the Debtors are obligated to construct and operate a store on the Leased Premises. However, as of the Petition Date, the construction of the store was not completed and therefore, the Debtors are not operating a store at this location.

5. Upon information and belief, the Debtors have abandoned the project and have no intention of completing the construction of the store or otherwise operating a store on the Leased Premises.

6. As of the filing of this objection, the Debtors owed their general contractor and certain other sub-contractors (directly employed by the Debtors) approximately \$736,043.56 for work already performed on the constructed store shell.

OBJECTIONS

7. Raymond & Main objects to the relief requested in the Extension Motion because there is no cause to extend the time within which the Debtors must assume or reject the Alhambra Lease.

8. As noted, the Debtors have no current operations on the Leased Premises and upon information, the Debtors have abandoned the project and have no intention of completing the construction of the store on the Leased Premises.

9. In the meantime, the Debtors owe their general contractors and sub-contractors in excess of \$736,043.56 for work performed on the constructed store shell.

10. The abandoned store hampers the overall market value of the Property and the commerce and business of the other tenants of the Property.

11. One of the sub-contractors, Trane US, Inc., has already recorded a mechanics lien against the Property in the amount of \$47,802.00. Upon information and belief, other contractors will likewise record liens against the Property if their claims are not paid immediately.

12. The Debtors' failure to keep the Property and Leased Premises free and clear of liens is a breach under the Alhambra Lease. As a result of the Debtors' breach, Raymond & Main has been (and will be) required to obtain bonds to cover these liens. Accordingly, Raymond & Main is being prejudiced by the continuation of the Alhambra Lease as is. To date, Raymond & Main has already had to expend in excess of \$717.00 in order to obtain a bond for the Trane lien.

13. Therefore, the Lease should either be rejected so that Raymond & Main may take over, gain ownership of, and complete the project and pay the outstanding claims of the general and sub-contractors or the Debtors should be compelled to complete the construction and pay the contractor's claims¹ (and reimburse Raymond & Main for its costs in obtaining bonds to cover these liens) if the Debtors wish to continue to enjoy the benefits of the Alhambra Lease pending assumption or rejection of the lease.

JOINDER IN OTHER LANDLORD OBJECTIONS

14. To the extent not inconsistent with this objection, Raymond & Main joins the objections of the other landlords to the Extension Motion.

PRAYER

WHEREFORE, PREMISES CONSIDER, Raymond & Main moves the Court to deny the relief requested in the Extension Motion and for such other and further relief as the Court deems just and proper both in equity and at law.

¹ The Court has previously authorized the Debtors to pay contractors' claims of these types. See Docket No. 129.

Respectfully submitted,

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**ATTORNEYS FOR RAYMOND &
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument has been served on the parties on the attached Service List via electronic means as listed on the court's ECF noticing system or by regular U. S. First Class Mail on this 3rd day of December, 2008.

/s/ William A. (Trey) Wood, III
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